

STATEMENT OF
THE HONORABLE EDWARD V. HICKEY, JR.
CHAIRMAN
FEDERAL MARITIME COMMISSION
BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
MERCHANT MARINE SUBCOMMITTEE
UNITED STATES SENATE

MAY 16, 1986

Mr. Chairman and members of the Subcommittee. It is a pleasure to appear before you today to present the Fiscal Year 1987 budget estimates of the Federal Maritime Commission.

With me today are Robert D. Bourgoïn, the Commission's General Counsel, Wm. Jarrel Smith, Jr., the Director of Administration, and Frederick F. Trutkoff, the Director of the Office of Budget and Financial Management.

Before addressing our specific budget estimate, I would like to make one point. The Federal Maritime Commission is a regulatory agency. We do not administer any grant programs and, as a result, we exercise very limited discretionary spending. The Commission's budget is strictly an operating budget. Personnel costs, including salaries and benefits, constitute approximately 80 percent of our total budget.

Turning now to our budget estimate for fiscal year 1987. It is in the amount of \$11,940,000, and provides funding for 214 total workyears of employment. This is the

same amount of total workyears reflected in our fiscal year 1986 appropriation. However, compared to our budget appropriation of \$11,870,000 for 1986, the 1987 estimate represents an increase of \$70,000. This increase includes \$38,000 for personal services and \$32,000 for administrative expenses.

Mr. Chairman, I would also note that the amount we are requesting for 1987, \$11,940,000, is the same as that provided in the President's proposed budget. In my opinion, approval of our 1987 budget estimate will allow us to meet our responsibilities in an efficient and effective manner.

The budget estimate also reflects the changes which will occur if, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the Commission's 1986 appropriation is reduced by \$510,000 to \$11,360,000. The Commission has considered a number of options to meet this reduced figure, including the furloughing of employees. We believe that we can achieve these reductions, at least for this year, through savings in non-critical areas, such as travel, training, and limitations on new hiring. In addition, the Commission has recently reorganized several offices to achieve greater efficiency and this should help meet these reduced levels.

Now I would like to address some of the major activities proposed in the 1987 budget.

As you are aware, Mr. Chairman, the Shipping Act of 1984 has significantly altered the regulatory scheme over

the ocean shipping industry. In essence, it has struck a balance between shipper and carrier interests operating in our waterborne foreign commerce. The Commission is mindful of this balance and will strive to maintain it during the coming years.

Although it is too early to make any long-term assessment of the impact of the Act, early indications are that it is producing its intended results. Most agreements filed with the Commission are becoming effective at the conclusion of the 45-day waiting period and the Act has succeeded in doing away with the litigious and time-consuming procedures attendant to regulation under the 1916 Act. There have also been several consolidations of previously existing conferences, and, as a result, the Commission has fewer agreements on file. In addition, many conferences which previously did not have intermodal authority have now obtained that authority and are offering through intermodal service to an increasing number of inland United States points.

Shippers are also beginning to take advantage of the 1984 Act. Several thousand service contracts have been filed with the Commission and the right of independent rate action, mandated by the Act for conference members, has been frequently exercised.

What we have experienced so far are the initial, cautious steps of an industry acclimating itself to a new era. However, the severe overtonnaging which exists in most

U.S.-trades makes any attempt to gauge the long-term impact of the Act somewhat more difficult. Nonetheless, now that the industry has begun to work together, we expect these early trends to accelerate.

As you know, carriers now have much more flexibility to structure their commercial arrangements and can quickly effectuate these relationships. However, that flexibility is not completely unfettered. To ensure against possible abuses, Congress designated a series of prohibited acts to guide the conduct of those involved in our waterborne foreign commerce. For the 1984 Act to work as envisioned, these activities must be eliminated to the fullest extent possible. Accordingly, in fiscal year 1987, the Commission intends to initiate a coordinated surveillance and enforcement program to be administered by the Bureau of Investigations. This program will focus on areas which can have significant impact throughout the industry, rather than simply reacting to complaints of potential violations as they arise.

During fiscal year 1987, the Commission will continue its efforts to review the feasibility of an automated tariff filing and information system to replace the Commission's manual system for receiving and filing tariff materials. The Commission's present system is considered by many to be antiquated. Some carriers today have to transfer their tariff information from electronic media to hard copy just so they can file it with the Commission.

An advisory committee, composed of representatives from the agency, the information industry, and elements of the shipping public, has been established to obtain input from all parties affected by tariff automation. The Committee recently held its first meeting and will meet two more times this year.

A study is also under way to identify and analyze available alternatives to automating tariffs and to weigh the technical and economic feasibility of an automated system. After the completion of the feasibility study, the Commission hopes to begin the systems design and development phase in 1987, so that a pilot system can be operational by 1988. The Commission is requesting funding for this effort in the amount of \$180,000. Our ultimate goal is to develop a system that meets the regulatory and enforcement needs of the Commission, is compatible with commercial uses of tariff data, is more accessible to users, and seeks to recover costs incurred in the development and operation of the system by means of user fees, to the extent permitted by law.

We are also striving to achieve greater processing efficiencies in all our functions through increased automation. Eventually, we would like to automate all processing functions within the Commission.

The 1984 Act authorizes the use of service contracts in our foreign commerce and subjects that use to the oversight of the Commission. All such contracts and statements of

their essential terms must be filed with the Commission and the essential terms must be made available to similarly situated shippers. Initially, use of service contracts started slowly. During the last quarter of fiscal year 1984, we received only 160. However, the use of service contracts has since increased dramatically. We now have over 4,500 filed with us and they are arriving at the rate of 24 a day. The Commission must review these filings to ensure that they comport with statutory and regulatory requirements. In addition, the Commission must actively monitor the use of service contracts to ensure that all their terms and conditions are met. We anticipate that the use of service contracts will continue to grow during fiscal year 1987.

The Shipping Act of 1984 also requires that the Commission collect and analyze information regarding the impact of the Act on the international ocean shipping industry. The information to be collected relates to increases or decreases in tariffs, changes in common carrier services available to ports, the number and strength of independent carriers, and the cost of major regulatory proceedings before the Commission.

The staff has made considerable progress in fulfilling this mandate. Significant amounts of data have already been collected and the staff has held 16 meetings with the other departments and agencies with which we are to share the data. The staff is also receiving considerable assistance

from various industry groups, including shippers, carriers, and port authorities.

Under the provisions of the 1984 Act this information will form the basis of the report which the Commission will make to the Advisory Commission on Conferences in Ocean Shipping, due to be established in late 1989.

As you know, Mr. Chairman, the Commission also has the responsibility of administering section 19 of the Merchant Marine Act of 1920. This statutory provision allows the Commission to take retaliatory action against unfavorable conditions to shipping in our foreign trades. It has proven to be particularly useful in addressing discriminatory or restrictive practices of foreign governments.

Some foreign governments have enacted laws, decrees, and other cargo preference measures, or implemented onerous trade restrictions on oceanborne cargoes, which discriminate against carriers, including U.S.-flag operators, in the U.S. liner trades. These practices have, in some instances, reduced carrier access to certain trades and also served to reduce the options of shippers to obtain the best available service at the most favorable rates, thereby adversely affecting the U.S. export and import commerce. Complaints about such discriminatory activities have resulted in Commission actions designed to remove the offending conditions. The Commission has been increasingly active in this area and expects this to continue in the coming year.

The cargo preference scheme of foreign nations may also serve to limit the activities -- or bar the presence -- of U.S.-flag carriers in the trades between foreign ports. Under its new authority contained in section 13(b)(5) of the 1984 Act, the Commission can protect our carriers seeking to enter the cross-trades. While this authority has yet to be applied, it represents a significant addition to the Commission's powers to safeguard U.S. foreign-trade interests. To date, no petitions have been filed under section 13(b)(5) of the Shipping Act of 1984. The Commission, however, remains vigilant. Last year, representatives from U.S.-flag carriers were contacted to assure them that the Commission plans to preserve and protect U.S.-flag carriers' competitive access in foreign trades. Meetings were held with these representatives to identify potential trouble spots where 13(b)(5) action may be necessary.

Mr. Chairman, the Commission and its 214 employees have the responsibility for regulating the transportation of cargo by liner operators in both the United States foreign commerce and our domestic offshore commerce, an industry which accounted for over \$181 billion of liner cargo in 1985. Administering the shipping statutes over such a large and vital industry is a significant undertaking. The Commission's 1987 budget estimate is responsive to both our statutory charter and the economic realities we all face today. It will allow us to get the job done. Mr. Chairman, I urge your favorable consideration of our submission.